

SENATE BILL NO. 288

INTRODUCED BY C. CHRISTIAENS, WATERMAN, MCCARTHY

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE BOARD OF PHARMACY TO CREATE A PROGRAM FOR THE DONATION OF PRESCRIPTION DRUGS BY LONG-TERM CARE FACILITIES TO PROVISIONAL COMMUNITY PHARMACIES OFFERING DRUGS TO CERTAIN LOW-INCOME PERSONS; REQUIRING THE BOARD OF PHARMACY TO ADOPT RULES; PROVIDING DEFINITIONS; REQUIRING A LONG-TERM CARE FACILITY DONATING DRUGS TO DELETE PATIENT IDENTIFICATION INFORMATION FROM THE PRESCRIPTION DRUG CONTAINER; PROVIDING FOR IMMUNITY FROM SIMPLE NEGLIGENCE FOR LONG-TERM CARE FACILITIES AND PATIENTS DONATING PRESCRIPTION DRUGS; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Department of public health and human services and board of pharmacy to create program for donation of unused prescription drugs -- rulemaking required.** (1) The board of pharmacy shall, in consultation and cooperation with the department of public health and human services, create a program for the donation of prescription drugs collected from long-term care facilities to ~~medically needy individuals~~ QUALIFIED PATIENTS.

(2) For the purposes of the program created pursuant to subsection (1), prescription drugs, except those drugs defined as a dangerous drug in 50-32-101; or a drug designated as a precursor to a controlled substance in 50-32-401, unneeded by a resident or former resident of a long-term care facility ~~may~~ SHALL MAY be donated by the long-term care facility to a PROVISIONAL COMMUNITY pharmacy that provides or may provide prescription drugs to individuals who are ~~medically needy~~ QUALIFIED PATIENTS for transfer free of charge or at a reduced charge to those ~~medically needy~~ individuals.

(3) This section does not amend or otherwise change the law applicable to the prescribing of prescription drugs, the sale of those drugs, or the licensing of long-term care facilities or pharmacies.

(4) The board of pharmacy shall adopt rules to implement [sections 1 through 3]. The rules must address the subjects of collection and receipt of donated prescription drugs from residents of long-term care facilities, keeping of those drugs within the long-term care facility, transfer of the drugs to PROVISIONAL

1 COMMUNITY pharmacies, which pharmacies MAY BE CONSIDERED PROVISIONAL COMMUNITY PHARMACIES THAT may
2 sell or give the drugs to others, and the price for which the drugs may be sold. In adopting the rules, the
3 board of pharmacy shall consider the ability of persons to pay for the drugs and the existence and
4 operation of similar programs in other states.

5 (5) As used in [sections 1 through 3], the following definitions apply:

6 (a) "Long-term care facility" has the meaning provided in 50-5-101.

7 (b) ~~"Medically needy" means a person qualifying for the program provided for in 53-6-131(1)(f)(ii).~~

8 "PROVISIONAL COMMUNITY PHARMACY" MEANS THE PRACTICE OF PHARMACY AT A SITE THAT HAS BEEN APPROVED BY
9 THE BOARD, INCLUDING BUT NOT LIMITED TO FEDERALLY QUALIFIED HEALTH CENTERS AS DEFINED IN 42 CFR 405.2401,
10 WHERE PRESCRIPTION DRUGS ARE DISPENSED TO APPROPRIATELY SCREENED, QUALIFIED PATIENTS.

11 (c) "QUALIFIED PATIENTS" MEAN PERSONS WHO ARE UNINSURED, INDIGENT, OR HAVE INSUFFICIENT FUNDS TO
12 OBTAIN NEEDED PRESCRIPTION DRUGS.

13
14 NEW SECTION. Section 2. Long-term care facilities to delete identifying information from donated
15 prescription drugs. A long-term care facility donating a prescription drug pursuant to the program created
16 under [sections 1 through 3] shall delete from the container in which that drug is held any information by
17 which the long-term care facility resident or former resident for whom the drugs were prescribed may be
18 identified.

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20 NEW SECTION. Section 3. Immunity for long-term care patients and facilities donating
21 prescription drugs. A resident or former resident of a long-term care facility and the long-term care facility
22 donating a prescription drug as part of the program created pursuant to [sections 1 through 3] are not
23 liable for simple negligence in the donation of a drug if the requirements of [sections 1 through 3] and the
24 rules implementing [sections 1 through 3] have been complied with.

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26 NEW SECTION. Section 4. Codification instruction. [Sections 1 through 3] are intended to be
27 codified as an integral part of Title 37, chapter 7, and the provisions of Title 37, chapter 7, apply to
28 [sections 1 through 3].

29
30 NEW SECTION. Section 5. Effective dates. (1) Except as provided in subsection (2), [this act]

1 is effective October 1, 2001.

2 (2) [Sections 1(4) and 4 and this section] are effective on passage and approval.

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